

Defendants.

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT
SAFETY-KLEEN SYSTEMS, INC.'S
MOTION TO COMPEL PLAINTIFF
SINGH**

(1) Plaintiff responded to defendant's Interrogatory No. 4 requesting damage and loss calculations by stating: "[d]iscovery is ongoing and Plaintiff has not yet determined the amount of his damages claimed, nor has he determined each and every element of injury claimed" and that "[d]ocuments with regard to Plaintiff's wages and benefits are already in the possession of Defendant." See Dkt. #26-3, Ex. E. This response is insufficient. Part of plaintiff's damage

ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
MOTION TO COMPEL

1 claim includes recovery for back pay and front pay. See Dkt. #1 (Complaint) at ¶5.1.1. As part
2 of the computation of damages required by Fed. R. Civ. P. 26(a)(1)(c) and defendant's
3 Interrogatory No. 4, plaintiff should have provided some information relating to hours worked
4 and pay rate. See City and County of San Francisco v. Tutor-Saliba Corp., 218 F.R.D. 219, 221
5 (N.D. Cal. 2003) ("[T]he 'computation' of damages required by Rule 26(a)(1)(c) contemplates
6 some analysis; for instance, in a claim for lost wages, there should be some information relating
7 to hours worked and pay rate."). Accordingly, plaintiff shall provide his assessment of damages
8 in light of the information currently available to him in sufficient detail so as to enable defendant
9 to understand the contours of its potential exposure and make informed decisions as to
10 settlement and discovery. See id.

11 (2) Plaintiff has not adequately responded to Interrogatory No. 8 because he failed to
12 include information regarding his post-termination employment as requested by the
13 interrogatory. See Dkt. #26-3, Ex. E; Dkt. #16, Ex. F. Accordingly, plaintiff is ordered to
14 provide a response to Interrogatory No. 8 that includes the post-termination employment
15 information requested.

16 (3) Plaintiff objected to the production of information under Interrogatory No. 10 until
17 the entry of a protective order. Now that the Court has entered the parties' stipulated protective
18 order (Dkt. #14), plaintiff is ordered to produce the information requested by Interrogatory No.
19 10. See Dkt. #26-3, Ex. E; Dkt. #16, Ex. F.

20 (4) Plaintiff has put his emotional distress damages at issue in this case. See Dkt. #1 at
21 ¶5.1.3. Therefore, the Court finds the information requested by Interrogatory No. 11 appears
22 reasonably calculated to lead to the discovery of admissible evidence, and plaintiff is ordered to
23 produce a substantive response to this interrogatory. See Fed. R. Civ. P. 26(b)(1); Dkt. #26-3,
24 Ex. E; Dkt. #16, Ex. F.

25 (5) Plaintiff has failed to fully respond to Interrogatory No. 12, including whether he has

1 ever been a party-defendant in a lawsuit. See Dkt. #26-3, Ex. E; Dkt. #16, Ex. F. Accordingly,
2 plaintiff is ordered to produce a complete response to this interrogatory.

3 (6) Plaintiff did not want to respond to Request for Production (“RFP”) No. 4 until the
4 entry of a protective order. Now that the Court has entered the parties’ stipulated protective
5 order (Dkt. #14), plaintiff is ordered to produce the items requested by RFP No. 4. See Dkt.
6 #26-3, Ex. G; Dkt. #16, Ex. F.

7 (7) Plaintiff appears to have produced items subject to RFP No. 5. See Dkt. #26-3, Ex.
8 G (stating “See enclosures”). Defendant, however, has failed to articulate how plaintiff’s
9 response to RFP No. 5 is deficient.¹ Accordingly, defendant’s motion to compel a further
10 response to RFP No. 5 is denied.

11 (8) Plaintiff did not want to respond to RFP No. 9 until the entry of a protective order.
12 Now that the Court has entered the parties’ stipulated protective order (Dkt. #14), plaintiff is
13 ordered to produce the items requested by RFP No. 9. See Dkt. #26-3, Ex. G; Dkt. #16, Ex. F.

14 (9) Defendant’s RFP No. 11 asked for “statements of any Defendant employee created
15 during or after [plaintiff’s] employment with Safety Kleen.” See Dkt. #26-3, Ex. G. Plaintiff
16 originally asserted that this request was overly broad, but has subsequently represented that he
17 has produced to defendant the only written statement he has collected as bates-stamped
18 document T&S 361. Id.; Dkt. #26-3, Ex. Q. In light of this representation, defendant has failed
19 to articulate how plaintiff’s response to RFP No. 11 is deficient.² Accordingly, defendant’s
20 motion to compel a further response to RFP No. 11 is denied.

21 (10) Plaintiff appears to have produced items subject to RFP No. 15. See Dkt. #26-3,
22 Ex. G (stating “see enclosures”). Defendant, however, has failed to articulate how plaintiff’s
23

24 ¹ Notably, defendant failed to provide the Court with a reply in support of its motion to compel.

25 ² See supra note 1.

1 response to RFP No. 15 is deficient.³ Accordingly, defendant's motion to compel a further
2 response to RFP No. 15 is denied.

3 (11) The Court finds that plaintiff's objection to RFP No. 16, as not being reasonably
4 calculated to lead to admissible evidence, is not warranted in this case and accordingly plaintiff
5 is ordered to produce a substantive response to RFP No. 16.

6 (12) The Court finds that plaintiff's objection to RFP No. 21, as not being reasonably
7 calculated to lead to admissible evidence, is not warranted in this case and accordingly plaintiff
8 is ordered to produce a substantive response to RFP No. 21.

9 (13) Plaintiff did not want to respond to RFP No. 34 until the entry of a protective order.
10 Now that the Court has entered the parties' stipulated protective order (Dkt. #14), plaintiff is
11 ordered to produce the items requested by RFP No. 34. See Dkt. #26-3, Ex. G; Dkt. #16, Ex. F.

12 (14) Plaintiff did not want to respond to RFP No. 35 until the entry of a protective order.
13 Now that the Court has entered the parties' stipulated protective order (Dkt. #14), plaintiff is
14 ordered to produce the items requested by RFP No. 35. See Dkt. #26-3, Ex. G; Dkt. #16, Ex. F.

15 (15) The Court finds that plaintiff's objection to RFP No. 36, as not being reasonably
16 calculated to lead to admissible evidence, is not warranted in this case and accordingly plaintiff
17 is ordered to produce a substantive response to RFP No. 36. See Dkt. #26-3, Ex. G.

18 (16) The Court finds that defendant has not supported a showing that RFP No. 37 for
19 plaintiff's cell phone records is reasonably calculated to lead to the discovery of admissible
20 evidence in this case. Accordingly, defendant's motion to compel a further response to RFP No.
21 37 is denied.

22 For all of the foregoing reasons, defendant's "Motion to Compel Plaintiff Singh to
23 Answer Defendant Safety-Kleen Systems, Inc.'s First Set of Interrogatories and Requests for
24

25 ³ See supra note 1.

1 Production of Documents” (Dkt. #15) is GRANTED IN PART and DENIED IN PART.
2 Accordingly, defendant’s request for attorney’s fees and costs incurred as a result of its motion
3 is DENIED. All responses required from plaintiff under this order shall be provided to
4 defendant no later than 10 days from the date of the order.

5 DATED this 22nd day of May, 2007.
6

7 
8

9 Robert S. Lasnik
10 United States District Judge
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25